IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 4TH DECEMBER 2006 / 13TH AGRAHAYANA 1928

Crl.MC.No. 2166 of 2006()

CP.19/2004 of JUDL.MAGISTRATE OF FIRST CLASS-I, KOTTAYAM.
CRIME NO.285/00 OF MANARKAD POLICE STATION.

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PETITIONER: ACCUSED NO.10

JOSEPH @ APPACHAN, AGED 50 YEARS,
S/O.CHACKO, PUTHENPARAMBIL HOUSE,
NALKAVALA, THRIKODITHANAM VILLAGE,
KOTTAYAM DISTRICT.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REP. BY SUB INSPECTOR
OF POLICE, MANARKAD POLICE STATION,
KOTTAYAM DISTRICT, REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 04/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 2166 OF 2006

Dated this the 4th day of December, 2006

ORDER

When this petition came up for hearing and disposal finally, the learned counsel for the petitioner was pointedly asked why the petitioner cannot claim discharge from the Sessions Court under Sec.227/228 of the Cr.P.C. The learned counsel for the petitioner submits that the petitioner is worried only about the unnecessary vexation which must inevitably occur as the petitioner is unlikely to be granted bail, the offence being ones exclusively triable by a Court of Session. If this Court would permit the petitioner to appear before the learned Sessions Judge and claim discharge, the petitioner will have no surviving grievance. The possibility of his unnecessary incarceration in prison may be avoided and suitable provisions may be made, it is prayed.

2. Having gone through all the relevant facts including the judgment of acquittal of the co-accused and the quashing of proceedings against accused No.11, I am satisfied that the petitioner must be given an opportunity to claim discharge

from the Sessions Court without the threat or fear of being incarcerated in prison by orders of the committal court.

3. In the result, this Crl.M.C. is dismissed and the following directions are issued under Sec.438 of the Cr.P.C. to secure the interests of justice:

(i) The petitioner shall appear before the learned Magistrate at 11 a.m. on 15/12/2006. The petitioner shall be released on bail on condition that he executes a bond for Rs.25,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The dismissal of this petition will not in any way fetter the rights of the petitioner to claim discharge from the Court of Sessions at the stage of Sec.227/228 of the Cr.P.C.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge